

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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HAEMONETICS CORP., : *LEAVE TO FILE GRANTED 1/26/11*

Plaintiff, :
v. : Civil Action Nos.
: 05-12572-NMG
FENWAL, INC., : 09-12107-NMG
:
Defendant. :
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**RECORDS DECLARATION OF TIMOTHY D. JOHNSTON
IN SUPPORT OF FENWAL, INC.'S REPLY MEMORANDUM
IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT**

I, Timothy D. Johnston, hereby declare on oath as follows:

1. I am a partner at the law firm of Nutter McClennen & Fish LLP, which represents Fenwal, Inc. in the above-captioned matter.
2. A true and complete copy of the relevant pages of the docket from PACER for Civil Action No. 05-12572-NMG (the “2005 action”) showing that the Joint Motion To Remove Baxter International Inc. As A Defendant filed on February 28, 2006 (2005 D.I. 8) was granted by the Court on March 3, 2006 is attached as Exhibit 1.
3. A true and complete copy of the relevant pages from the transcript of the April 9, 2010 deposition of Kathleen Crowder taken in Civil Action No. 09-12107-NMG (the “2009 action”) is attached as Exhibit 2.
4. A true and complete copy of the relevant pages from the transcript of the April 14, 2010 deposition of Robert Brown taken in the 2009 action is attached as Exhibit 3.

5. A true and complete copy of the relevant pages from Robert C. Faber's *Landis On Mechanics Of Patent Claim Drafting* is attached as Exhibit 4.

6. A true and complete copy of the relevant pages of the transcript from day three (January 21, 2009) of the jury trial in *Haemonetics Corp. v. Baxter Healthcare Corp. & Fenwal, Inc.*, C.A. No. 05-12572-NMG is attached as Exhibit 5.

7. A true and complete copy of Plaintiff's *Markman* Claim Construction Brief (2005 D.I. 32) filed in the 2005 action is attached as Exhibit 6.

8. A true and complete copy of Plaintiff's Reply *Markman* Claim Construction Brief (2005 D.I. 40) filed in the 2005 action is attached as Exhibit 7.

9. A true and complete copy of the relevant pages from the transcript of the *Markman* hearing held on July 13, 2007 (2005 D.I. 53) in the 2005 action is attached as Exhibit 8.

10. A true and complete copy of the Brief of Plaintiff-Appellee in the Federal Circuit appeal (*Haemonetics Corp. v. Baxter Healthcare Corp.*, 607 F.3d 776 (Fed. Cir. 2010)) is attached as Exhibit 9.

11. A true and complete copy of an English translation of the German Writ of Complaint filed on September 20, 2010 in the Regional Court Düsseldorf by Haemonetics alleging that the ALYX[®] Component Collection System separation cup infringes the German part (DE 600 35 532 T2) of European Patent EP 1 491 259 B1 is attached as Exhibit 10.

12. A true and complete copy of DE 600 35 532 T2 is attached as Exhibit 11.

13. A true and complete copy of European Patent EP 1 491 259 B1 is attached as Exhibit 12.

14. A true and complete copy of an English translation of the patent claims from DE 600 35 532 T2 is attached as Exhibit 13.

15. A true and complete copy of the Memorandum & Order dated October 13, 2010 (2009 D.I. 65) in the 2009 action is attached as Exhibit 14

16. A true and complete copy of a technical drawing depicting the redesigned ALYX System RBC vessel is attached as Exhibit 15.

17. A true and complete copy of a technical drawing depicting the redesigned ALYX System RBC Plasma vessel is attached as Exhibit 16.

SIGNED UNDER THE PENALTIES OF PERJURY THIS 26th DAY OF JANUARY 2011.

/s/ Timothy D. Johnston
Timothy D. Johnson

CERTIFICATE OF SERVICE

I certify that, on January 26, 2011, this document (filed through the ECF system) will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

/s/ Timothy D. Johnston

Timothy D. Johnson